

REMARKS

Claims 1-20 are currently pending in this application. No claims have been canceled. Claims 1, 11 and 17 have been amended.

Claim Rejection under 35 U.S.C. § 101

The Examiner states that claims 17-20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicant disagrees.

Claim 17 is directed to "functional descriptive material" and consists of data structures and computer programs which impart functionality when employed as a computer component. The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." See MPEP §2106.01. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)(discussing patentable weight of data structure limitations in the context of a statutory claim to a data structure stored on a computer readable medium that increases computer efficiency) (emphasis added). ***When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory.*** See *Diamond v. Diehr*, 450 U.S. 175, 185-86, 209 USPQ 1, 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer."). Such a result would exalt form over substance. *In re Sarkar*, 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 1978) ("[E]ach invention must

be evaluated as claimed; yet semantogenic considerations preclude a determination based solely on words appearing in the claims. ***In the final analysis under § 101, the claimed invention, as a whole, must be evaluated for what it is.***”) (quoted with approval in Abele, 684 F.2d at 907, 214 USPQ at 687) (emphasis added). Claim 17 is allowable as written. As such, claims 18-20 are allowable as well. Applicants respectfully request removal of this rejection.

Claim Rejection under 35 U.S.C. § 103

In the present office action independent claims 1, 11 and 17 were rejected under 35 USC 103(a) as being unpatentable over Pelaez et al. (US Patent Application Pub. No. 2004/0185836) (hereinafter Pelaez) in view of Houde et al. (US Patent Application No. 5,978,678) (hereinafter Houde) in further view of Loranzo et al. (US Patent Application No. 5,982,869) (hereinafter Loranzo). Applicant disagrees and traverses the rejections of claims 1-20.

As stated in MPEP § 2143.01, to establish *prima facie* obviousness of a claimed invention, ***all the claim limitations must be taught or suggested by the prior art. In re Royka***, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added). Applicant disagrees and traverses the rejections of claims 1-20. Applicant does not believe that Houde, Pelaez, or Loranzo teach or suggest, expressly or inherently every claim element of the rejected claims.

The Examiner states that Pelaez and Houde disclose substantially all of the elements of the independent claims 1, 11 and 17 except for “identifying a route index related to a route list that includes a sequence of routing rules for routing the call.” However, Loranzo, the Examiner asserts shows that this limitation is known in the art. Applicant respectfully traverses both of these assertions. In particular, Pelaez and Houde do not teach or disclose each element as disclosed by Applicant’s claimed invention.

The Examiner has set forth that Pelaez discloses “receiving a call at a first node in a telecommunication network, wherein the first node includes a plurality of at least one Media Gateways, the first node associated with a plurality of trunks,” As is clearly

disclosed in Pelaez, as seen in FIG. 1 and throughout the disclosure, the invention of Pelaez is distinctly different. In fact, there are a multitude of Mobile Switching Centers. *They are not servers*, they are merely Mobile Switching Centers (MSC) coupled to two Media Gateways (MGWs). However, the Examiner states that this illustrates Applicant's invention. It does not. Applicant's invention is "a distributed mobile switching center, the distributed mobile switching center including at least a plurality of Media Gateways and a server." For example, in the cited portion, Pelaez states "[0008] The exemplary network shown in FIG. 1 supports an embodiment of the present invention. A subscriber associated with wireless communication device 10, such as a cellular telephone, is supported with wireless telecommunications by radio access network (RAN) 12 and mobile switching center (MSC) 14. Similarly, subscribers associated with wireless communication devices 16 and 22 are supported with wireless telecommunications by radio access networks 18 and 24 and mobile switching centers 20 and 26, respectively. A media gateway (MGW) 28, such as a Cisco Systems Inc. MGX-8850 multiservice switch, is connected to the RANs, mobile switching centers 14, 20 and 26, and to the public switched telephone network (PSTN) 30 that includes media gateway (MGW) 32. A central office telecommunications switch 34 is also coupled to the PSTN 30 and supports a telephone line connected to telephone 36. A call collection data unit (CCDU) 38 connected to MGW 28 receives and stores communications associated with party subject to the wiretap. [0009] In accordance with an embodiment of the present invention, a wiretap as will be explained below is supported by the network shown in FIG. 1. The subscriber associated with the wireless device and the wireless device itself will be referred to by the reference numeral associated with the wireless device; it will be apparent from the context whether the subscriber or the device is intended. In an illustrative example, law enforcement authorities associated with telephone 36 have obtained legal authority to intercept and record communications to and from subscriber 16. The law enforcement authorities have contacted the telecommunications service provider for subscriber 16 and requested that calls to and from the telephone number associated with subscriber 16 be intercepted and that any communications resulting from such calls be routed to and stored in CCDU 38. It is also requested that all calls intended

for subscriber 16 be intercepted even where enhanced telecommunication services are utilized for subscriber 16 to reroute an incoming call, such as by utilizing call forwarding, to another telephone number. Assume that the telecommunications service provider has taken steps in accordance with the present invention as will be described below to carry out these requests. [0010] Assume subscriber 10 places a telephone call to subscriber 16. Prior to this incoming telephone call, subscriber 16 has enabled unconditional call forwarding of all incoming calls and directed that all such calls be routed to subscriber 22. The subscriber 16 may desire that all calls be directed for answering by the subscriber normally associated with telephone 22 or may anticipate himself using telephone 22 to receive incoming calls originally directed to telephone 16. Regardless of the motive, call forwarding has been initiated to reroute calls from telephone 16 to telephone 22. The handling of such calls that are subject to a wiretap of the subscriber's telephone 16 as will be described below. [0011] Before beginning a description of the exemplary steps utilized to connect such a call including the wiretap implementation to monitor the call, an overview of FIG. 2 will be of assistance. *Logical media gateway elements 50, 52 and 54 could be realized in physically separate media gateway nodes but in the illustrative embodiment are implemented within MGW 28. Logical media gateway element 56 is implemented as part of MGW 32 that is part of the PSTN 30. The media gateways 28 and 32 contain a plurality of input/output ports, including ports that support time division multiplex (TDM) communications and packet based Internet protocol communications.* In accordance with ITU-T H.248 standards these ports can be interconnected in accordance with requests received from an intelligent node, e.g. MSC 20, to form a logical network.” One switch is illustrated in Applicant’s disclosure in FIG. 1, wherein the invention contemplates many such switches. Under the present analysis, Pelacz is patently distinct from Applicant’s invention. As such, Applicant’s claims 1, 11 and 17 are allowable and any claims depending therefrom are allowable as well.

In addition, when the Examiner discusses the “constraint relating to a selection of a circuit associated with a trunk”, the Examiner turns to Houde quoting “A call 200 dialed to the home directory number of the internationally roaming mobile station 16(1) originates from another cellular subscriber or the public switched telephone network

(PSTN) and is received at one of the switching nodes 14 (i.e., gateway node) of the first country cellular network 12. It will be noted that the number dialed comprises the originally assigned home directory number. Using the signaling link 24, the switching node 14 interrogates the *home location register 22* with a location request signal 202 including the dialed home directory number. This location request signal 202 may comprise an IS-41 LOCREQ signal or other equivalent standardized or proprietary message. The *home location register 22* processes (action 204) the location request signal, in view of the previously received registration notification signal 104, to determine the location (i.e., serving switching node 34 within the second country cellular network 32) of the called mobile station 16(1). The home location register 22 then signals the serving switching node 34 for the called mobile station 16(1) (over signaling links 18 and 24, through international gateway 50, and over signaling link 40) with a routing request signal 206 to route the call. This routing request signal may comprise an IS-41 ROUTEREQ signal or other equivalent standardized or proprietary message. Responsive to the signal 206, the serving switching node 34 assigns (action 208) a temporary local directory number (TLDN) to the international roaming mobile station 16(1), and sends a routing request return result signal 210 including the assigned temporary local directory number to the home location register 22 via the international gateway 50. From processing of the previously stored switching node identification for switching node 34, the home location register identifies the country where that node (34) is located and retrieves (action 212) its country code (CC) designation. The country code and returned temporary local directory number are then appended to the proper international dialing access digits (IDAD) to form (action 214) the international number for contacting the called international roaming mobile station 16(1). It will be noted that if the returned temporary local directory number does not include a city code, this may also be determined from processing the switching node identification number and then appended by action 214 at the proper location to complete the international number.”

Houde does not teach “identifying a constraint relating to selection of a circuit associated with one of the plurality of trunks associated with the first node for routing the call.” The claim element must be viewed in its entirety. The first node is a MGW, not a

Home location Register. There is a huge difference in functionalities. For example, the instant switching environment includes Media Gateways and a MSC server. An MSC server is a soft-switch variant of the MSC, which provides circuit-switched calling, mobility management, and GSM services to the mobile phones roaming within the area that it serves. MSS functionality enables split between control (signalling) and user plane (bearer in network element called as media gateway/MG), which guarantees more optimal placement of network elements within the network. Moreover, the MSC server connects to a Home Location Register to find the SIM information associated with a cellular telephone. Thus, Houde cannot be used as a reference since the signal is sent from an HLR. Under the present analysis, Pelaez is patentably distinct from Applicant's invention. As such, Applicant's claims 1, 11 and 17 are allowable and any claims depending therefrom are allowable as well.

For example, in the present invention, As such, the Examiner is not viewing the claimed invention as a whole. "In the instant case, we conclude that a person of ordinary skill in the art having common sense at the time of the invention would not have reasonably looked to _____ to solve a problem already solved by Applicant." Ex Parte Rinkevich et al, Appeal 20071317, decided May 29, 2007. *Distilling an invention down to the "gist" or "thrust" of an invention disregards the requirement of analyzing the subject matter "as a whole."* W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) (Emphasis added).

However, purely in the interest of expediting the prosecution of the instant application, Applicant has amended claims 1, 11 and 17 to include at least one of the following limitations: A method for routing calls in a distributed mobile switching center environment, the distributed mobile switching center including at least a plurality of Media Gateways and a Mobile Switching Center Server, the method comprising:

receiving a call at a first node in a telecommunication network, wherein the first node includes a plurality of ~~at least one~~ Media Gateways, the first node associated with a plurality of trunks;

identifying a interconnection constraint relating to selection of a circuit associated with one of the plurality of trunks associated with the first node for routing the call;

inputting the call into a Mobile Switching Center server to derive a number translation in which the number is translated and a route index is identified, wherein the route index points to a route list that includes a sequence of routing rules for routing the call; and

routing the call to a trunk in accordance with the interconnection constraint, wherein in selected situations the plurality of Media Gateways further comprises a cluster comprising a single switch that uses a single set of routing translations.

Support for such limitations can be found at least on pages 2 through 17 of the instant application. Neither Pelaez, Houde nor Loranzo teaches or suggests expressly or inherently such limitations. As such, Applicant believes that independent claims 1, 11 and 17, as well as the claims that depend from them are in condition for allowance and respectfully requests that they be passed to allowance.

CONCLUSION

For the above reasons, the foregoing amendment places the Application in condition for allowance. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact Raffi Gostanian at (972) 849-1310.

Respectfully submitted,
RG&ASSOCIATES

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By: /Raffi Gostanian/
Raffi Gostanian
Reg. No. 42,595